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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,172	12/21/2005	Harald Koellner	40149/01001	1304
3636 7590 12/24/2009 FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038				
EXAMINER				
STRIMBU, GREGORY J				
ART UNIT		PAPER NUMBER		
3634				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,172

Applicant(s)

KOELLNER ET AL.

Examiner

Gregory J. Strimbu

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

The request filed on December 16, 2009 for a Request for Continuing Examination (RCE) under 37 CFR 1.114 is acceptable and an RCE has been established. Any previous finality is hereby withdrawn and a new action on the merits follows. Any newly-submitted claims have been added. An action on the RCE follows.

Drawings

The drawing corrections filed December 16, 2009 and May 4, 2009 have been approved.

However, the drawings are still objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of receivers (claim 15) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It should be noted that the drawing correction of May 4, 2009 only shows one receiver 15. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary

to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The amendment filed May 4, 2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the receivers 15" as shown in figure 2a. The examiner does not contend that receivers were not originally disclosed. However, there is not support for the receivers 15" as depicted in figure 2a. How can the receivers 15" in figure 2a be for a window lifting mechanism or loudspeakers and why is one pair of the receivers shown as blind holes while another receiver is shown with two parallel lines?

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

Claims 1, 2, 4-14 and 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "contacting an edge region surrounding the opening" on lines 4-5 of claim 1 render the claims indefinite because it is unclear if the applicant is claiming the subcombination of the module or the combination of the module and the opening of the door. The preamble implies the subcombination while the positive recitation of the opening on lines 4-5 of claim 1 implies the combination. Also see lines 2-3 of claim 12 and lines 4-5 of claim 16 which suffer from the same indefiniteness.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-7, 12 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Koa et al. (US 6412852). Koa et al. discloses a module for covering an opening (not numbered, but shown in figure 1) in a motor vehicle door 10 and for supporting a door inner trim 20, comprising: a base body 35 including a base 42 and at least one bracket 41 movable with respect to the base, the bracket 41 including a supporting surface 37 for contacting an edge region surrounding the opening, the bracket including at least one fixation point 39 for fastening to a door trim 20, wherein the supporting surface is fixed to the edge region by pressure;

regarding claim 2, the module includes a sheet 35 of one of a metal and a plastic (see column 5, lines 41-43);

regarding claim 4, a peripheral seal 45 limiting the passage of moisture through the opening;

regarding claim 5, the bracket 41 is integrally formed on the base body 42;

regarding claim 6, the bracket 41 is coupled to the base by a film hinge 40;

regarding claim 7, the bracket 41 includes a clipping opening 39 sized to receive and clip therein a corresponding part 25 of the inner trim 20;

regarding claim 11, the bracket is fastened to the base by at least one spring element 40;

regarding claim 12, a plurality of fixation elements 25 fastening the module to the edge of the opening.

Claims 1, 2, 5-9 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lau et al. (US 5048234). Lau et al. discloses a module 24 for covering an opening 22 in a motor vehicle door and for supporting a door inner trim, comprising: a base body 24 including a base and at least one bracket 52 movable with respect to the base, the bracket including a supporting surface (not numbered, but shown in figure 4) contacting an edge region surrounding the opening, the bracket including at least one fixation point (not numbered, but comprising the hole through which the bolt 66 extends) for fastening to the door trim 70, wherein the supporting surface is fixed to the edge region by pressure;

regarding claim 2, the door module includes a sheet of one of a metal and a plastic;

regarding claim 5, the bracket 52 is integrally formed on the base body 24;

regarding claim 6, the bracket 52 is coupled to the base by a film hinge (not numbered, but shown in figure 4);

regarding claim 7, the bracket 52 is a fixation element including a clipping opening (not numbered, but comprising the opening through which the bolt 66 extends) sized to receive and clip therein a corresponding part of the inner trim;

regarding claims 8, 9 and 12, the at least one bracket 52 comprises 3 to 20 brackets 54, 56, 58, 60;

regarding claim 11, the bracket 52 is fastened to the base 24 by at least one spring element (not numbered, but shown in figure 4);

regarding claim 13, an elasticity of the bracket 52 relative to the base 24 is such that the base is movable with respect to a support edge of the bracket in a direction substantially perpendicular to a plane of the door by up to 1 mm while maintaining pressure between the support edge and the edge of the opening as shown in figure 5;

regarding claim 14, an elasticity of the bracket relative to the base is such that the base is movable with respect to a support edge of the bracket in a direction substantially perpendicular to a plane of the door by 2-6 mm while maintaining pressure between the support edge and the edge of the opening as shown in figure 5.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lau et al. as applied to claims 1, 2, 5-9 and 11-14, as set forth above. Lau et al. is silent concerning 8 to 12 brackets.

However, one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious matter of engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide Lau et al. with 8-12 brackets to increase the amount of force needed to displace the base during a collision.

Response to Arguments

Applicant's arguments filed December 16, 2009 have been fully considered but they are not persuasive.

The applicant argues that Koa et al. fails to disclose a supporting surface fixed to the edge region by pressure. This is not persuasive because the supporting surface includes a pressure sensitive stripe or bead 45. In order to use the pressure sensitive stripe or bead, the stripe or bead is compressed. Thus, a pressure is used to fix the supporting surface 37 to the edge region of the opening. Moreover, the base is fixed to the edge region of the opening by "Christmas tree" fasteners 25 which inherently require pressure in order properly use them. See column 5, lines 25-29.

The applicant's arguments concerning Lau et al. are not persuasive. The applicant is under the impression that the supporting surfaces of Lau et al. comprise the portion of the brackets welded to the base body 24. This is not persuasive because the supporting surfaces of the brackets comprise the portion of the brackets that includes the holes for the fasteners 66. Accordingly, the supporting surface comprises the lower most vertical surface of the bracket 52 as shown in figure 4. This portion of the bracket is clearly fixed to the edge region of the opening 22 by the pressure exerted by the fastener 66.

Conclusion

THIS ACTION IS NOT MADE FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory J. Strimbu/
Primary Examiner, Art Unit 3634